## Local Government Mandate Statement Kentucky Legislative Research Commission 2023 Regular Session

**Part I: Measure Information** 

Bill Request #: 1227
Bill #: HB 262 HCS 1
<b>Document ID #:</b> 5155
Bill Subject/Title: AN ACT relating to driving under the influence.
Sponsor: Representative Patrick Flannery
Unit of Government: X City X County X Urban-County Unified Local
X Charter County X Consolidated Local X Government Office(s) Impacted: Local Law Enforcement
Requirement: X Mandatory Optional
Effect on  Powers & Duties: X Modifies Existing Adds New Eliminates Existing

## Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

**Section 1** of HB 262 HCS 1 amends KRS 189A.103 to change breath test administration requirements from being in accordance with test manufacturer instructions to being in accordance with standard operating procedures adopted by the Department of Criminal Justice Training.

Currently, KRS 189A.110 requires that a person arrested for a violation of KRS 189.010 who, upon breath analysis testing, shows a concentration of .15 percent or more must be detained for four hours following their arrest. **Section 2** would amend this language to narrow the applicable violations to those found in KRS 189A.010(1)(a), (b), or (f) which only pertain to alcohol intoxication while operating a motor vehicle as opposed to intoxication related to the consumption of other substances while operating a motor vehicle. Section 2 would also remove the language requiring a breath test result of .15 percent or more to detain the individual. In addition, the required detainment period would be extended to six (6) hours following his or her arrest unless a breath analysis test shows an alcohol concentration of .000 percent, at which time the detainment may end.

**Section 3** creates a new section of KRS Chapter 507 that would make a person guilty of vehicular homicide, a Class B felony, when:

- He or she causes the death of another; and
- The death results from the person's operation of a motor vehicle, including but not limited to boats and airplanes, under the influence of alcohol, a controlled substance, or other substance which impairs driving ability as described in KRS 189.010.

This Act may be cited as Lily's Law. This Act includes an emergency clause, and would take effect upon passage and approval by the governor or upon it's otherwise becoming law.

The fiscal impact on local governments is expected to be minimal. Standard operating procedures for the administration of breath tests discussed in Section 1 are not expected to financially affect local law enforcement agencies. Additional holding time requirements in Section 2 may create some additional costs to jails, however this is expected to be minimal. Section 3 creates a new section of KRS Chapter 507 which creates a new crime of vehicular homicide, a Class B felony. Class B felony convictions are housed in state prisons and ineligible to serve any portion of their sentence in a local jail. Therefore, there will be no impact to local governments for this new crime.

## Part III: Differences to Local Government Mandate Statement from Prior Versions

Part II refers to HB 262 HCS 1. HB 262 HCS 1 makes the following changes to HB 262 as introduced:

- Extends the amount of time in which a person arrested for driving under the influence of alcohol is required to be held before release.
- Creates a new Class B felony for deaths resulting from a person driving under the influence.

**Data Source(s):** LRC Staff

**Preparer:** Jacob Blevins (WB) **Reviewer:** KHC **Date:** 3/3/23